1 2 3 4 UNITED STATES DISTRICT COURT 5 DISTRICT OF NEVADA UNITED STATES OF AMERICA, 6 2:17-CR-110-APG-DJA 7 Plaintiff, **Final Order of Forfeiture** 8 v. PHILLIP D. HURBACE, 10 Defendant. 11 This Court found that Phillip D. Hurbace shall pay the in personam criminal 12 forfeiture money judgment of \$136,636.95 under Fed. R. Crim. P. 32.2(b)(1) and (b)(2); 18 13 U.S.C. § 981(a)(1)(C) with 28 U.S.C. § 2461(c); and 21 U.S.C. § 853(p).¹ 14 This Court finds that on the government's motion, the Court may at any time enter 15 an order of forfeiture or amend an existing order of forfeiture to include subsequently 16 located property or substitute property under Fed. R. Crim. P. 32.2(e) and 32.2(b)(2)(C). 17 The in personam criminal forfeiture money judgment amount of \$136,636.95 18 complies with United States v. Lo, 839 F.3d 777 (9th Cir. 2016); Honeycutt v. United States, 581 19 U.S. 443 (2017); United States v. Thompson, 990 F.3d 680 (9th Cir. 2021); and United States v. 20 Prasad, 18 F.4th 313 (9th Cir. 2021). 21 Substitution and Forfeiture 22 On November 17, 2023, the United States filed a Motion to Substitute and to Forfeit 23 Phillip D. Hurbace's 1055 Mountain Quail Road property (Motion to Substitute).² 24 ¹ Superseding Criminal Indictment, ECF No. 8; Jury Verdict, ECF No. 225; Minutes of 25 Jury Trial, ECF No. 229; Preliminary Forfeiture Order, ECF No. 320. 26 ² 1055 Mountain Quail Road, Calpine, California 96124, more particularly described as: PARCEL 3, AS SHOWN ON THE PARCEL MAP FOR W. ASTLE, FILED MAY 19, 27 1977, IN BOOK 5 OF MAPS AND SURVEYS, AT PAGE 46, SIERRA COUNTY RECORDS, TOGETHER WITH ALL IMPROVEMENTS AND APPURTENANCES THEREON; APN: 012-090-079-0 (Mountain Quail); Motion to Substitute, ECF No. 367.

ECF No. 406-1, p. 5.

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On December 7, 2023, the Court granted the Motion to Substitute.³

This Court finds the United States published the notice of forfeiture in accordance

with the law via the official government internet forfeiture site, www.forfeiture.gov,

consecutively from December 9, 2023, through January 7, 2024, notifying all potential third parties of their right to petition the Court. Notice of Filing Proof of Publication Exhibits,

This Court finds the United States notified known third parties by personal service or by regular mail and certified mail return receipt requested of their right to petition the Court. Notice of Filing Service of Process – Personal Service (SOP-PS), ECF No. 417; Notice of Filing Service of Process – Mailing (SOP-M), ECF No. 422.

On January 8, 2024, the Internal Revenue Service-CI (IRS) personally served Bradley Burns and Lori Burns with copies of the Substitution and Forfeiture Order and the Notice. SOP-PS, ECF No. 417-1, p. 3, 24-29.

On January 12, 2024, the IRS personally served Kelly Douglas Card (Or Carn, Jr.) with copies of the Substitution and Forfeiture Order and the Notice. SOP-PS, ECF No. 417-1, p. 4, 24-29.

On January 8, 2024, the IRS attempted to personally serve Larry Dean Coralli with copies of the Substitution and Forfeiture Order and the Notice. SOP-PS, ECF No. 417-1, p. 5, 24-29.

On January 11, 2024, the IRS personally served Jeffrey Haeberlin with copies of the Substitution and Forfeiture Order and the Notice. SOP-PS, ECF No. 417-1, p. 6, 24-29.

On January 11, 2024, the IRS personally served Nicole Hurbace / Nicole Gaudioso with copies of the Substitution and Forfeiture Order and the Notice. SOP-PS, ECF No. 417-1, p. 7, 24-29.

On January 12, 2024, the IRS personally served Phillip D. Hurbace with copies of the Substitution and Forfeiture Order and the Notice. SOP-PS, ECF No. 417-1, p. 8, 31-36.

³ Substitution and Forfeiture Order, ECF No. 374.

On January 12, 2024, the IRS personally served Osvaldo E. Fumo, Attorney for 1 Phillip D. Hurbace, with copies of the Substitution and Forfeiture Order and the Notice. 2 SOP-PS, ECF No. 417-1, p. 9, 24-29. 3 4 On January 11, 2024, the IRS personally served Vicki Hurbace with copies of the Substitution and Forfeiture Order and the Notice. SOP-PS, ECF No. 417-1, p. 10, 24-29. 5 On January 16, 2024, the IRS attempted to personally serve Carl Kenneth Hurst with 6 copies of the Substitution and Forfeiture Order and the Notice. SOP-PS, ECF No. 417-1, 7 p.11, 24-29. 8 9 On January 12, 2024, the IRS personally served Gloria Rodney with copies of the Substitution and Forfeiture Order and the Notice. SOP-PS, ECF No. 417-1, p. 12, 31-36. 10 On January 12, 2024, the IRS attempted to personally serve Melinda Sebasovich 11 with copies of the Substitution and Forfeiture Order and the Notice. SOP-PS, ECF No. 417-12 1, p. 13, 24-29. 13 On January 16, 2024, the IRS personally served Kerin Schroeder with copies of the 14 Substitution and Forfeiture Order and the Notice. SOP-PS, ECF No. 417-1, p. 14, 24-29. 15 On January 12, 2024, the IRS personally served Perry Stasi with copies of the 16 Substitution and Forfeiture Order and the Notice. SOP-PS, ECF No. 417-1, p. 15, 24-29. 17 On January 8, 2024, the IRS personally served Sylviane Della Whitmore with copies 18 19 of the Substitution and Forfeiture Order and the Notice. SOP-PS, ECF No. 417-1, p. 16, 24-29. 20 On January 16, 2024, the IRS personally served Lisa A. Rasmussen, Attorney for 21 Sylviane Della Whitmore, with copies of the Substitution and Forfeiture Order and the 22 Notice. SOP-PS, ECF No. 417-1, p. 17, 24-29. 23 On January 18, 2024, the IRS personally served Robert Leroy Wolfe (or Kaufman) 24 with copies of the Substitution and Forfeiture Order and the Notice. SOP-PS, ECF No. 417-25 1, p. 18, 24-29. 26 /// 27 /// 28

On January 12, 2024, the IRS personally served Sandra Groven, Sierra County District Attorney, with copies of the Substitution and Forfeiture Order and the Notice. SOP-PS, ECF No. 417-1, p. 19, 31-36.

On January 12, 2024, the IRS personally served Laura Marshall, Sierra County Assessor, with copies of the Substitution and Forfeiture Order and the Notice. SOP-PS, ECF No. 417-1, p. 20, 31-36.

On January 12, 2024, the IRS personally served Heather Foster, Sierra County Clerk and Recorder, with copies of the Substitution and Forfeiture Order and the Notice. SOP-PS, ECF No. 417-1, p. 21, 31-36.

On January 12, 2024, the IRS personally served Van Maddox, Sierra County Treasurer, with copies of the Substitution and Forfeiture Order and the Notice. SOP-PS, ECF No. 417-1, p. 31-36.

On January 5, 2024, the United States Attorney's Office served and attempted to serve Bradley Burns and Lori Burns by regular and certified return receipt mail with the Substitution and Forfeiture Order and the Notice. The certified mail was returned as unclaimed. The regular mail was not returned. SOP-M, ECF No. 422-1, p. 3, 10-20.

On January 5, 2024, the United States Attorney's Office served Kelly Douglas Card (or Carn, Jr.) on Eastern Ave. by regular and certified return receipt mail with the Substitution and Forfeiture Order and the Notice. SOP-M, ECF No. 422-1, p. 3, 10-16, 21-22.

On January 5, 2024, the United States Attorney's Office served and attempted to serve Kelly Douglas Card (or Carn, Jr.) on Radcliff Street by regular and certified return receipt mail with the Substitution and Forfeiture Order and the Notice. The certified mail was returned as unclaimed. The regular mail was not returned. SOP-M, ECF No. 422-1, p. 3, 10-16, 23-25.

On January 5, 2024, the United States Attorney's Office served Brent Lee Coralli by regular and certified return receipt mail with the Substitution and Forfeiture Order and the Notice. SOP-M, ECF No. 422-1, p. 3, 10-16, 26-28.

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On January 5, 2024, the United States Attorney's Office attempted to serve Larry Dean Coralli by regular and certified return receipt mail with the Substitution and Forfeiture Order and the Notice. Both mailings were returned as attempted – not known, unclaimed, and unable to forward. SOP-M, ECF No. 422-1, p. 3, 10-16, 29-31.

On January 5, 2024, the United States Attorney's Office served the Estate of Larry Dean Coralli, c/o Brent Lee Coralli, by regular and certified return receipt mail with the Substitution and Forfeiture Order and the Notice. SOP-M, ECF No. 422-1, p. 3, 10-16, 32-33.

On January 5, 2024, the United States Attorney's Office served Lucia Garanin or Costin or Aranin or Yaramin at 225th Avenue by regular and certified return receipt mail with the Substitution and Forfeiture Order and the Notice. SOP-M, ECF No. 422-1, p. 4, 10-16, 34-35.

On January 5, 2024, the United States Attorney's Office served Lucia Garanin or Costin or Aranin or Yaramin at Highlands Drive NE by regular and certified return receipt mail with the Substitution and Forfeiture Order and the Notice. SOP-M, ECF No. 422-1, p. 4, 10-16, 36-37.

On January 5, 2024, the United States Attorney's Office served and attempted to serve Jeffrey Haeberlin by regular and certified return receipt mail with the Substitution and Forfeiture Order and the Notice. The certified mail was returned as unclaimed. The regular mail was not returned. SOP-M, ECF No. 422-1, p. 4, 10-16, 38-40.

On January 5, 2024, the United States Attorney's Office served Nicole Hurbace / Nicole Gaudioso at Moonlight View Ct. by regular and certified return receipt mail with the Substitution and Forfeiture Order and the Notice. SOP-M, ECF No. 422-1, p. 4, 10-16, 41-42.

On January 5, 2024, the United States Attorney's Office served Nicole Hurbace / Nicole Gaudioso at Reynolds Ave. by regular and certified return receipt mail with the Substitution and Forfeiture Order and the Notice. SOP-M, ECF No. 422-1, p. 4, 10-16, 43-44.

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On January 5, 2024, the United States Attorney's Office attempted to serve Nicole Hurbace / Nicole Gaudioso at Chestnut Ridge Cir. by regular and certified return receipt mail with the Substitution and Forfeiture Order and the Notice. Both mailings were returned. SOP-M, ECF No. 422-1, p. 4, 10-16, 45-47.

On January 5, 2024, the United States Attorney's Office served and attempted to serve Nicole Hurbace / Nicole Gaudioso at Ten Gallon Ct. by regular and certified return receipt mail with the Substitution and Forfeiture Order and the Notice. The certified mail was returned attempted – not known. The regular mail was not returned. SOP-M, ECF No. 422-1, p. 4, 10-16, 48-50.

On January 5, 2024, the United States Attorney's Office served and attempted to serve Phillip D. Hurbace at 1055 Mountain Quail Rd. by regular and certified return receipt mail with the Substitution and Forfeiture Order and the Notice. The certified mail was returned as unclaimed. The regular mail was not returned. SOP-M, ECF No. 422-1, p. 4, 10-16, 51-53.

On January 5, 2024, the United States Attorney's Office served and attempted to serve Phillip D. Hurbace at 1035 Mountain Quail Rd. by regular and certified return receipt mail with the Substitution and Forfeiture Order and the Notice. The certified mail was returned as unclaimed. The regular mail was not returned. SOP-M, ECF No. 422-1, p. 5, 10-16, 54-56.

On January 5, 2024, the United States Attorney's Office served and attempted to serve Phillip Hurbace at Oakhill Ave. by regular and certified return receipt mail with the Substitution and Forfeiture Order and the Notice. The certified mail was returned as unclaimed. The regular mail was not returned. SOP-M, ECF No. 422-1, p. 5, 10-16, 57-59.

On January 5, 2024, the United States Attorney's Office served Pitaro & Fumo, Chtd., Osvaldo E. Fumo, Attorney for Phillip D. Hurbace, by regular and certified return receipt mail with the Substitution and Forfeiture Order and the Notice. SOP-M, ECF No. 422-1, p. 5, 10-16, 60-61.

On January 5, 2024, the United States Attorney's Office served Vicki Hurbace by regular and certified return receipt mail with the Substitution and Forfeiture Order and the Notice. SOP-M, ECF No. 422-1, p. 5, 10-16, 62-63.

On January 5, 2024, the United States Attorney's Office served and attempted to serve Carl Kenneth Hurst by regular and certified return receipt mail with the Substitution and Forfeiture Order and the Notice. The certified mail was returned as attempted – not known. The regular mail was not returned. SOP-M, ECF No. 422-1, p. 5, 10-16, 64-66.

On January 5, 2024, the United States Attorney's Office served The Estate of Carl Kenneth Hurst, c/o Teresa Hurst, by regular and certified return receipt mail with the Substitution and Forfeiture Order and the Notice. SOP-M, ECF No. 422-1, p. 5, 10-16, 67-68.

On January 5, 2024, the United States Attorney's Office served Teresa Hurst by regular and certified return receipt mail with the Substitution and Forfeiture Order and the Notice. SOP-M, ECF No. 422-1, p. 5, 10-16, 69-70.

On January 5, 2024, the United States Attorney's Office served and attempted to serve Gloria Rodney at 1055 Mountain Quail Rd. by regular and certified return receipt mail with the Substitution and Forfeiture Order and the Notice. The certified mail was returned as unclaimed. The regular mail was not returned. SOP-M, ECF No. 422-1, p. 5, 10-16, 71-73.

On January 5, 2024, the United States Attorney's Office served and attempted to serve Gloria Rodney at PO Box 284 by regular and certified return receipt mail with the Substitution and Forfeiture Order and the Notice. The certified mail was returned as unclaimed. The regular mail was not returned. SOP-M, ECF No. 422-1, p. 6, 10-16, 74-76.

On January 5, 2024, the United States Attorney's Office served Kerin Schroeder by regular and certified return receipt mail with the Substitution and Forfeiture Order and the Notice. SOP-M, ECF No. 422-1, p. 6, 10-16, 77-78.

On January 5, 2024, the United States Attorney's Office served and attempted to serve Melinda Sebasovich at Lake Julia Drive by regular and certified return receipt mail

with the Substitution and Forfeiture Order and the Notice. The USPS has the certified mail

as moving through network since January 15, 2024. Neither mailing was returned. Lexis Public Records, Westlaw Public Records, and Accurint all list this location as her current location. SOP-M, ECF No. 422-1, p. 6, 10-16, 79-82.

On January 5, 2024, the United States Attorney's Office attempted to serve Melinda Sebasovich at 6th Street by regular and certified return receipt mail with the Substitution and Forfeiture Order and the Notice. Both mailings were returned as not deliverable as addressed, unable to forward. SOP-M, ECF No. 422-1, p. 10-16, 83-86. Notice of Modification, ECF Nos. 423, p. 2 and 423-1, p. 5.

On January 5, 2024, the United States Attorney's Office attempted to serve Melinda Sebasovich at Stephanie St. by regular and certified return receipt mail with the Substitution and Forfeiture Order and the Notice. Both mailings were returned as attempted – not known. SOP-M, ECF No. 422-1, p. 6, 10-16, 87-89.

On January 5, 2024, the United States Attorney's Office attempted to serve Melinda Sebasovich at Paradise Rd. by regular and certified return receipt mail with the Substitution and Forfeiture Order and the Notice. Both mailings were returned. SOP-M, ECF No. 422-1, p. 6, 10-16, 90-92.

On January 5, 2024, the United States Attorney's Office served Peri Stasi at Anthem Village Dr. by regular and certified return receipt mail with the Substitution and Forfeiture Order and the Notice. SOP-M, ECF No. 422-1, p. 6, 10-16, 93-94.

On January 5, 2024, the United States Attorney's Office served Peri Stasi at Villa Rica Drive by regular and certified return receipt mail with the Substitution and Forfeiture Order and the Notice. SOP-M, ECF No. 422-1, p. 7, 10-16, 95-98.

On January 5, 2024, the United States Attorney's Office served and attempted to serve Peri Stasi at Canvas Edge Dr. by regular and certified return receipt mail with the Substitution and Forfeiture Order and the Notice. The certified mail was returned as insufficient address. The regular mail was not returned. SOP-M, ECF No. 422-1, p. 7, 10-16, 99-101.

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On January 5, 2024, the United States Attorney's Office served Todd Vowell at E 2580 S by regular and certified return receipt mail with the Substitution and Forfeiture Order and the Notice. SOP-M, ECF No. 422-1, p. 7, 10-16, 102-103.

On January 5, 2024, the United States Attorney's Office served and attempted to serve Todd Vowell at Bluff St. by regular and certified return receipt mail with the Substitution and Forfeiture Order and the Notice. The certified mail was delivered. The regular mail was returned as not deliverable as addressed. SOP-M, ECF No. 422-1, p. 7, 10-16, 104-106.

On January 5, 2024, the United States Attorney's Office served Sylviane Della Whitmore by regular and certified return receipt mail with the Substitution and Forfeiture Order and the Notice. SOP-M, ECF No. 422-1, p. 7, 10-16, 107-108.

On January 5, 2024, the United States Attorney's Office served The Law Offices of Kristina Wildeveld & Assoc., Lisa Rasmussen, Attorney for Sylviane Della Whitmore, by regular and certified return receipt mail with the Substitution and Forfeiture Order and the Notice. SOP-M, ECF No. 422-1, p. 7, 10-16, 109-110.

On January 5, 2024, the United States Attorney's Office served Robert Leroy Wolfe (or Kaufman) at Chapelle Ct. by regular and certified return receipt mail with the Substitution and Forfeiture Order and the Notice. SOP-M, ECF No. 422-1, p. 7, 10-16, 111-112.

On January 5, 2024, the United States Attorney's Office served Robert Leroy Wolfe (or Kaufman) at Grand Canyon Dr. by regular and certified return receipt mail with the Substitution and Forfeiture Order and the Notice. SOP-M, ECF No. 422-1, p. 7, 10-16, 113-114.

On January 5, 2024, the United States Attorney's Office attempted to serve Robert Leroy Wolfe (or Kaufman) at Spring Shower Drive by regular and certified return receipt mail with the Substitution and Forfeiture Order and the Notice. Both mailings were returned as no such number. SOP-M, ECF No. 422-1, p. 8, 10-16, 115-117.

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On January 5, 2024, the United States Attorney's Office served Laura Marshall, Sierra County Assessor, by regular and certified return receipt mail with the Substitution and Forfeiture Order and the Notice. SOP-M, ECF No. 422-1, p. 8, 10-16, 118-119.

On January 5, 2024, the United States Attorney's Office served Heather Foster, Sierra County Clerk and Sierra County Recorder, by regular and certified return receipt mail with the Substitution and Forfeiture Order and the Notice. SOP-M, ECF No. 422-1, p. 8, 10-16, 120-121.

On January 5, 2024, the United States Attorney's Office served Sandra Groven, Sierra County District Attorney, by regular and certified return receipt mail with the Substitution and Forfeiture Order and the Notice. SOP-M, ECF No. 422-1, p. 8, 10-16, 122-123.

On January 5, 2024, the United States Attorney's Office served Van Maddox, Sierra County Treasurer, by regular and certified return receipt mail with the Substitution and Forfeiture Order and the Notice. SOP-M, ECF No. 422-1, p. 8, 10-16, 124-125.

On January 22, 2024, the United States Attorney's Office served Deborah Mayers by regular and certified return receipt mail with the Substitution and Forfeiture Order and the Notice. SOP-M, ECF No. 422-1, p. 8, 10-16, 126-128.

On February 5, 2024, Bradley Burns filed a Claim on Mountain Quail, ECF No. 416. On February 8, 2024, Bradley Burns withdrew his claim, ECF No. 419.

This Court finds no other petition as to Phillip D. Hurbace was filed herein by or on behalf of any person or entity and the time for filing such petitions and claims has expired.

This Court finds no petitions as to Phillip D. Hurbace are pending regarding the substitute property named herein and the time has expired for presenting such petitions.

THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the United States recover from Phillip D. Hurbace the in personam criminal forfeiture money judgment of \$136,636.95, not to be held jointly and severally liable with any codefendants; and

that all possessory rights, ownership rights, and all rights, titles, and interests in the substitute property hereinafter described are condemned, forfeited, and vested in the United States:

1. Real property located at 1055 Mountain Quail Road, Calpine, California 96124, more particularly described as:

PARCEL 3, AS SHOWN ON THE PARCEL MAP FOR W. ASTLE, FILED MAY 19, 1977, IN BOOK 5 OF MAPS AND SURVEYS, AT PAGE 46, SIERRA COUNTY RECORDS, TOGETHER WITH ALL IMPROVEMENTS AND APPURTENANCES THEREON; APN: 012-090-079-0

(all of which constitutes substitute property), which the net proceeds after costs and expenses will be applied towards the criminal forfeiture money judgment; and

the forfeiture of the money judgment and the substitute property is imposed under Fed. R. Crim. P. 32.2(b)(4)(A) and (b)(4)(B); Fed. R. Crim. P. 32.2(c)(2); under Fed. R. Crim. P. 32.2(b)(4)(A) and (b)(4)(B); 18 U.S.C. § 981(a)(1)(C) with 28 U.S.C. § 2461(c); 21 U.S.C. § 853(p); and 21 U.S.C. § 853(n)(7); that the money judgment shall be collected; and that the substitute property and the collected amount shall be disposed of according to law.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that under Fed. R. Crim. P. 32.2(c) and 21 U.S.C. § 853(n)(7), all possessory rights, ownership rights, and all rights, titles, and interests in the real property are extinguished and are not recognized as to Phillip D. Hurbace, Larry Anthony McDaniel, Sylviane Della Whitmore, all third parties, and the following individuals and entities:

- 1. Nicole Hurbace / Nicole Gaudioso, Vicki Hurbace, and Gloria Rodney;
- 2. Bradley Burns and Lori Burns, Kelly Douglas Card (Or Carn, Jr.), Larry Dean Coralli, Estate of Larry Dean Coralli, Brent Lee Coralli, Lucia Garanin or Costin or Aranin or Yaramin, Jeffrey Haeberlin, Carl Kenneth Hurst, The Estate of Carl Kenneth Hurst, Teresa Hurst, Deborah Mayers, Kerin Schroeder, Melinda Sebasovich, Perry Stasi, Todd Vowell, Robert Leroy Wolfe (or Kaufman); and
- 3. Sierra County, California, including the Sierra County Assessor, Clerk, Recorder, District Attorney, and Treasurer.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the United States may market the substitute property notwithstanding any third party's name on the deed/title and the title company shall provide clear title on behalf of the United States for the sale of the forfeited property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that any and all forfeited funds, including but not limited to, currency, currency equivalents, certificates of deposit, as well as any income derived as a result of the government's management of any substitute property forfeited herein, and the proceeds from the sale of any forfeited substitute property shall be disposed of according to law.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Clerk send copies of this Order to all counsel of record and three certified copies to the United States Attorney's Office, Attention Asset Forfeiture Unit.

DATED _____ April 19 _____, 2024.

ANDREW P. GORDON UNITED STATES DISTRICT JUDGE